अनधिकृत धार्मिक स्थळांवर
करावयाच्या कार्यवाहीबाबत

महाराष्ट्र शासन
नगर विकास विभाग
शासन परिपत्रक क्रमांक:- याचिका-२०१४/प्र.क्र.२१९(भाग-४)/नवि-२०
मंत्रालय, मुंबई- ४०० ०३२
दिनांक:- ०५ नोव्हेंबर, २०१६.

वाचा:- १) शासन निर्णय, गृह विभाग क्र. सीटीएम ०९०९/प्र.क्र.५५८/(भाग-२)/विशा-१ ब, दिनांक ०५.०५.२०११.
२) शासन परिपत्रक, नगर विकास विभाग क्र. याचिका-२०१४/प्र.क्र.२१९/नवि-२०, दिनांक १६.०२.२०१५
३) शासन निर्णय, गृह विभाग क्र. सीटीएम ०२१५/प्र.क्र.७४/विशा-१ ब, दिनांक १८.११.२०१५
४) मा. उच्च न्यायालय, मुंबई येथे दाखल जनहित याचिका क्र. १०४/२०१० (सोसायटी फॉर फास्ट जस्टीस आणि इतर विरुध्द महाराष्ट्र शासन व इतर) मध्ये दिलेले दिनांक १८.०२.२०१६
५) शासन परिपत्रक, नगर विकास विभाग क्रमांक:- याचिका-२०१४/प्र.क्र.२१९(भाग-३)/नवि-२०, दिनांक १६.०३.२०१६
६) मा. उच्च न्यायालय, मुंबई येथे दाखल जनहित याचिका क्र. १०४/२०१० (सोसायटी फॉर फास्ट जस्टीस आणि इतर विरुध्द महाराष्ट्र शासन व इतर) मध्ये दिलेले दिनांक ०१.१०.२०१६ चे आदेश

शासन परिपत्रक:-

अनधिकृत धार्मिक स्थळांबाबत मा. उच्च न्यायालय, मुंबई येथे दाखल जनहित याचिका क्र. १०४/२०१० (सोसायटी फॉर फास्ट जस्टीस आणि इतर विरुध्द महाराष्ट्र शासन व इतर) मध्ये मा. उच्च न्यायालयाने दिनांक ०१.१०.२०१६ रोजी खालीलप्रमाणे आदेश दिले आहेत :-

(a) We grant prayer clauses (a) and (b) of Paragraph 8 of the affidavit/Application dated 21st September 2016 filed on behalf of the State Government by Shri Venkatesh Madhav Bhat, the Deputy Secretary to the Government of Maharashtra, Home Department, Mantralaya, Mumbai. We make it clear that no further extension will be granted;

(b) Hence, all illegal religious structures made after 29th September 2009 which have been already identified shall be demolished on or before 31st December 2016. The structures constructed before 29th September which have been identified as falling in "B" category shall be demolished on or before 17th November 2017. The structures constructed before 29th September which have been identified as falling in "C" category shall be removed and relocated on or before 31st December 2016. The Municipal Commissioners and the Collectors, as the case may be, shall be responsible for the implementation of these directions as provided in the second GR. Any breach on their part will result into an action against them under the Contempt of Courts Act,1971. The Home Department shall issue a circular to the Municipal Commissioners and Collectors enclosing therewith a copy of this Judgment within a period of three weeks from the date on which the Judgment is uploaded;

(c) On or before 30th November 2016, the State Government shall place on record the data of identified structures on streets and footpaths in the Municipal Corporation areas of Amaravati, Ahmednagar, Malegaon, Akola, Parbhani, Aurangabad and Nashik;

(d) We direct the State Government to issue directions to the Committees constituted under the said GR dated 5th May 2011 to undertake exercise of identifying illegal religious structures or shrines erected on all the public properties in the State. Needless to add that after identifying such illegal religious structures, the same shall be divided into two broader categories as provided in the said GR of the structures erected prior to 29th September 2009 and the structures made after 29th September 2009. As provided in the said GR, all structures erected after 29th September 2009 shall have no protection. The structures erected up to 29th September 2009 shall be divided into three categories as provided in the said GR dated 5th May 2011. Needless to add that out of these structures which will fall in the "B" category cannot be tolerated will have to be demolished;

(e) We direct the State Government to complete the said exercise of identifying and categorizing the illegal religious structures including classification of various structures on the public properties till 31st March 2017;

(f) Depending upon the large number of structures identified, the State Government shall take appropriate decision fixing a reasonable outer limit for implementation in terms of the said GR dated 5th May 2011. Such outer limit shall be fixed by issuing Government Resolution which shall be placed on record along with the compliance affidavit;

(g) We direct the said Committees constituted under the said GR dated 5th May 2011 to regularly hold meetings to monitor the entire exercise. As provided in the second GR, the Divisional Commissioners shall be responsible to supervise the implementation of the said GR dated 5th May 2011. The Home Department shall issue a Circular to the Divisional Commissioners enclosing therewith a copy of this Judgment within a period of three weeks from the date on which this Judgment is uploaded;

(h) As provided in the second GR dated 18th November 2015, it shall be the obligation of the Police Commissioners and the District Superintendent of Police, as the case may be, to provide adequate police protection by deputing police force comprising of male and female police constables including one armed constable for the purposes of assisting and protecting the public servants who undertake the work of demolition and/or shifting of illegal religious structures. The Police force shall be immediately provided on requisition being made by the concerned officers;

(i) The Commissioners of Police or the District Superintendents of Police, as the case may be, shall issue specific directions to all the police stations under their jurisdiction to provide such police protection;

(j) Criminal law shall be set in motion against the persons responsible for the construction of illegal religious structures. If any obstruction is made or if there are any threats given to the public servants in the work of demolition or relocation, criminal law shall be set in motion against the concerned persons howsoever influential are the said persons;

(k) We make it clear that the directions issued under this Judgment shall apply to the structures which are already identified and classified as well as the structures which will be identified and classified in terms of this judgment and order;

(l) The State Government shall issue specific directions under Section 154 of the Maharashtra Regional and Town Planning Act, 1966 to all the Planning Authorities in the State to scrupulously implement the said GR dated 5th May 2011 and the second GR dated 18th November 2015 and directions issued by the judgment and order including the direction to take preventive measures;

(m) Directions shall be issued to all the Planning Authorities and the District Collectors by the State Government to ensure that no construction of illegal religious structures or shrines takes place on the public properties including the streets, footpaths or foot ways. A direction shall also be issued by the State Government to create a Grievance Redress Mechanism for dealing with the complaints of the citizens including anonymous complaints about the commencement or erection of illegal religious structures on the public properties. Action shall be forthwith taken on the complaints by all the concerned Authorities forthwith. These directions shall be issued within a period of one month from the date on which this Judgment is uploaded. A direction shall be issued to regularly conduct public awareness campaign against such illegal construction of shrines on public properties;

(n) The Grievance Redress Mechanism shall be in accordance with the Grievance Redress Mechanism which was ordered to be created as per the directions issued in the decision in the case of ***Dr.Bedekar.*** Adequate publicity shall be given to availability of the said mechanism by publishing the details on the Websites of all concerned authorities and by prominently displaying the information about it in all Municipal offices and Collectors' offices. Wide publicity shall be given to the said mechanism in leading newspapers and local newspapers atleast twice a year;

(o) The State Government shall file an affidavit of compliance reporting compliance with the provisions of both the Government Resolutions and this judgment and order at the end of every calendar month. The first compliance affidavit shall be filed on or before 30th November 2016;

(p) We direct the State Government to produce a report on investigation carried out in C.R. No.0480 of 2015 registered at MIDC, Walunj Police Station at Aurangabad in a sealed envelope. The report shall be submitted on or before 30th November 2016;

(q) While issuing directions, the State Government shall issue directions to all the concerned Authorities to ensure that illegal religious structures are not re-erected at the same place where earlier illegal religious structures were erected and demolished. The re-erected religious structures shall be forthwith demolished without any notice;

(r) The issue of legality and validity of the aforesaid Government Resolutions in so far as the fixing of the cut off date is concerned, is kept open in light of the pendency of the Special Leave Petition before the Apex Court;

(s) We make it clear that all interim directions which are not modified by this judgment and order shall continue to operate with full force as final directions;

(t) We may clarify here that the policy of tolerating illegal structures made before the cut off date incorporated in the said GR dated 5th May 2011 is applicable only to the illegal religious structures made on public properties. The policy incorporated in the said GR is not applicable to the illegal religious structures made on private properties. Therefore, the State and the Planning Authorities cannot extend the protection of the said GR to the illegal religious structures made on private properties. They shall proceed to demolish the same in accordance with the law unless a particular structure is protected by any other exiting valid policy.

२. मा. उच्च न्यायालयाच्या उपरोक्त आदेशाचे काटेकोरपणे पालन करावे.

३. शासन निर्णय, गृह विभाग, दिनांक १८.११.२०१५ अन्वये अनधिकृत धार्मिक स्थळांवर कार्यवाही करण्याकरीता विहित केलेल्या मुदतीत दिनांक २९.०९.२००९ पूर्वीची नियमित करावयाची/ स्थलांतरीत करावयाच्या व दिनांक २९.०९.२००९ नंतरची निष्कासीत करावयाच्या अनधिकृत धार्मिक स्थळांबाबत कार्यवाही न झाल्याने सदर कार्यवाही पूर्ण करण्यासाठी दिनांक ३१.१२.२०१६ पर्यंत मुदतवाढ मा. उच्च न्यायालयाने दिली आहे. तरी दिनांक ३१.१२.२०१६ पर्यंत कोणत्याही परिस्थितीत सदर कार्यवाही पूर्ण करण्याची जबाबदारी संबंधीत आयुक्त, महानगरपालिका यांची राहील. सदर कालावधीत कार्यवाही पूर्ण न झाल्यास संबंधीत आयुक्त महानगरपालिका हे न्यायालयाचा अवमान केल्याबाबत Contempt of Courts Act, 1971 नुसार कार्यवाहीस पात्र ठरतील.

४. महाराष्ट्र नगररचना अधिनियम, १९६६ मधील तरतुदीनुसार दि. २९.०९.२००९ नंतर उभ्या राहिलेल्या अनधिकृत धार्मिक स्थळांबाबत सर्व नियोजन प्राधिकरणांनी तात्काळ आवश्यक कार्यवाही करावी. सार्वजनिक ठिकाणी नवीन धार्मिक स्थळ आवश्यक त्या परवानग्या मिळाल्याशिवाय उभारले जाणार नाही, याची काळजी सर्व नियोजन प्राधिकरणांनी घ्यावी. सार्वजनिक ठिकाणाच्या अनधिकृत धार्मिक

स्थळांबाबत प्राप्त झालेल्या तक्रारींचे निराकरण करण्यासाठी "तक्रार निवारण यंत्रणा" उभारण्यात यावी. सदर तक्रार निवारण यंत्रणा मा.उच्च न्यायालय (अपिल शाखा), मुंबई येथे दाखल जनहित याचिका क्र. १७३/२०१० मध्ये मा. न्यायालयाने दिलेल्या आदेशानुसार असावी.

५. यापूर्वी व आता निष्कासित करण्यात येणाऱ्या अनधिकृत धार्मिक स्थळाच्या ठिकाणी पुन्हा अनधिकृत धार्मिक स्थळ उभारण्यात आल्यास, ते कोणतीही सूचना न देता तात्काळ निष्कासित करण्याची कार्यवाही संबंधित नियोजन प्राधिकरणाने करावी.

६. सदर शासन परिपत्रक महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आले असून त्याचा संगणक संकेताक २०१६११०५१६३२४०६४२५ असा आहे. हे परिपत्रक डिजीटल स्वाक्षरीने सांक्षाकित करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नांवाने,

Jayasingrao N Patil

Digitally signed by Jayasingrao N Patil
DN: c=IN, o=Government Of Maharashtra, ou=Deputy Secretary, postalCode=400032, st=Maharashtra, cn=Jayasingrao N Patil
Date: 2016.11.05 16:37:30 +05'30'

(ज. ना. पाटील)
उप सचिव, महाराष्ट्र शासन

प्रत,

१) मा. विरोधी पक्षनेते, दोन्ही सभागृह, महाराष्ट्र विधानमंडळ, मुंबई
२) सर्व सन्माननीय विधानसभा/ विधानपरिषद व संसद सदस्य
३) मा. राज्यपाल महोदय यांचे सचिव
४) मा.मुख्यमंत्री महोदय यांचे प्रधान सचिव
५) सर्व मा. मंत्री / राज्यमंत्री यांचे खाजगी सचिव
६) मा. राज्य निवडणूक आयोग यांचे कार्यालय
७) मा. मुख्य सचिव यांचे वरिष्ठ स्वीय सहाय्यक
८) मा. लोकआयुक्त व उपलोकआयुक्त यांचे कार्यालय
९) मुख्यमंत्री महोदय यांचे जनसंपर्क अधिकारी
१०) महानगर आयुक्त, मुंबई महानगर प्रदेश विकास प्राधिकरण, बांद्रा (पूर्व), मुंबई
११) व्यवस्थापकिय संचालक, सिटी ॲन्ड इंडस्ट्रियल डेव्हलपमेंट कार्पोरेशन, नवी मुंबई
१२) सभापती, नागपूर सुधार प्रन्यास, नागपूर
१३) जिल्हाधिकारी (सर्व)
१४) राज्यातील सर्व महानगरपालिकांचे आयुक्त
१५) मुख्य कार्यकारी अधिकारी, पिंपरी-चिंचवड नवनगर विकास प्राधिकरण, निगडी, पुणे
१६) उप सचिव, गृह विभाग, मंत्रालय, मुंबई
१७) निवडनस्ती